

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF HAWAII

3 THE ESTATE OF ERIK A. POWELL,) Civil No.
4 THROUGH PERSONAL REPRESENTATIVE) CV04-00428LEK
5 MARY K. POWELL; THE ESTATE OF)
6 JAMES D. LAUGHLIN, THROUGH PERSONAL)
7 REPRESENTATIVE RAGINAE C. LAUGHLIN;)
8 MARY K. POWELL, INDIVIDUALLY;)
9 RAGINAE C. LAUGHLIN, INDIVIDUALLY;)
10 CHLOE LAUGHLIN, A MINOR, THROUGH)
11 HER NEXT FRIEND, RAGINAE C.)
12 LAUGHLIN,)
13 Plaintiffs,)
14 vs.)
15 CITY AND COUNTY OF HONOLULU,)
16 Defendant,)
17 and)
18 CITY AND COUNTY OF HONOLULU,)
19 Third-Party Plaintiff,)
20 vs.)
21 UNIVERSITY OF HAWAII, a body)
22 corporate; JOHN DOES 1-10, JANE)
23 DOES 1-10; DOE CORPORATIONS and)
24 DOE ENTITIES,)
25 Third-Party Defendants.)

EXHIBIT

"4"

21 DEPOSITION OF JAMES HOWE

22 Taken on behalf of Plaintiffs at the Law Offices
23 of Ian L. Mattoch, 737 Bishop Street, Suite 1835,
24 Honolulu Hawaii, commencing at 10:00 a.m. on
25 October 16, 2006, pursuant to Notice.

25 Before: WILLIAM T. BARTON, RPR, CSR NO. 391
Notary Public, State of Hawaii

1 hazard, just the water. There is the reef.

2 There's the cliffs. There's the road going down.

3 There's the sand. There's the bathrooms. There's

4 the coconuts in the trees. There's the sharks in

5 the water. There's the eels.

6 There's the fish that bite. The enenu.

7 There's currents. There's waves breaking.

8 There's sea urchins. There's menpachi. The ocean

9 is a hazardous environment.

10 And depending on the level of experience

11 of people who enter that environment, really,

12 there's different levels of risk of exposure.

13 But the ocean itself is a wilderness.

14 And it is inherently a hazardous environment for

15 human beings.

16 Q. Would you agree that the fact that most

17 of the swimmers at Hanauma Bay are face down poses

18 a particular challenge to the lifeguards?

19 A. We don't call people face down swimmers.

20 We call them snorkelers. The fact that people are

21 snorkeling in large numbers in that particular

22 area does present a challenge.

23 Q. And why is that?

24 A. In normal terms, beach lifeguards are

25 looking for certain kinds of signs of distress.